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3 **UNITED STATES DISTRICT COURT**  
4 **DISTRICT OF NEVADA**

5 \* \* \*

6 OCTAFORM INC.,

7 Plaintiff,

8 v.

9 LEONARD S. WARLAND, et al.,

10 Defendants.  
11

Case No. 2:19-cv-0006-JAD-CWH

**ORDER**

12 Presently before the court is non-party H-PAC Plastics, LLC's ("H-PAC") motion to  
13 quash a subpoena and for sanctions (ECF No. 1), filed on January 2, 2019. On February 25,  
14 2019, the court granted the parties' stipulation to continue the briefing of the motion to quash.  
15 (Order (ECF No. 7).) The parties were to notify the court regarding the status of a resolution by  
16 February 28, 2019. (*Id.*) The parties failed to submit a status report. The court, again, ordered  
17 the parties to submit a status report by March 14, 2019. (Min. Order (ECF No. 8).) To date the  
18 parties have not submitted a status report, and Octaform Inc. has not responded to the motion to  
19 quash.

20 Under Local Rule 7-2(d), the "failure of an opposing party to file points and authorities in  
21 response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees,  
22 constitutes a consent to granting of the motion." The court will therefore grant H-PAC's motion  
23 to quash and for sanctions. According to Rule 45(d)(1) of the Federal Rules of Civil Procedure:

24 A party or attorney responsible for issuing and serving a subpoena must take  
25 reasonable steps to avoid imposing undue burden or expense on a person subject  
26 to the subpoena. The court for the district where compliance is required must  
27 enforce this duty and impose an appropriate sanction—which may include lost  
28 earnings and reasonable attorney's fees—on a party or attorney who fails to  
comply.

1 Fed. R. Civ. P. 45(d)(1). The court will therefore award H-PAC reasonable attorney's fees for the  
2 preparation of this motion. H-PAC is encouraged to reach an agreement regarding the amount of  
3 fees with Octaform Inc. If the parties are unable to reach an agreement, H-PAC shall file a  
4 motion for attorney's fees pursuant to Local Rule 54-14, by May 1, 2019.

5 IT IS THEREFORE ORDERED that non-party H-PAC Plastics, LLC's motion to quash a  
6 subpoena and for sanctions (ECF No. 1) is GRANTED.

7 IT IS FURTHER ORDERED that H-PAC is awarded attorney's fees for the preparation of  
8 the motion to quash.

9 IT IS FURTHER ORDERED that the H-PAC must first meet and confer with Octaform  
10 on the issue of attorney's fees. H-PAC may file a motion for attorney's fees pursuant to Local  
11 Rule 54-14 if the parties cannot reach an agreement.

12 IT IS FURTHER ORDERED that H-PAC's motion for attorney's fees must be filed with  
13 the court by May 1, 2019

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15 DATED: March 26, 2019

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C.W. HOFFMAN, JR.  
UNITED STATES MAGISTRATE JUDGE